

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

APRIL H.,¹

Case No. 23-cv-3350 (LMP/LIB)

Plaintiff,

v.

MICHELLE KING, *Acting Commissioner
of the Social Security Administration*,²

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

Defendant.

Edward C. Olson, **Reitan Law Office, Minneapolis, MN**, and David F. Chermol, **Chermol & Fishman LLC, Philadelphia, PA**, for Plaintiff April H.

Ana H. Voss, **United States Attorney's Office, Minneapolis, MN**, Linda H. Green, James D. Sides, and Sophia Doroba, **Social Security Administration, Baltimore, MD**, for Defendant Michelle King, Acting Commissioner of the Social Security Administration.

Plaintiff April H. appeals the denial of her application for benefits by Defendant Michelle King, Acting Commissioner of the Social Security Administration (the “Commissioner”). *See* ECF No. 1. After receiving briefing from April H. and the Commissioner (ECF Nos. 13, 14, 16), United States Magistrate Judge Leo I. Brisbois issued a Report and Recommendation (“R&R”), recommending that the Court reverse the Commissioner’s decision denying benefits and remand to the Social Security

¹ This District has adopted the policy of using only the first name and last initial of any nongovernmental parties in Social Security opinions.

² On January 21, 2025, Michelle King became the Acting Commissioner of the Social Security Administration. The Court substitutes Michelle King as defendant in her official capacity. Fed. R. Civ. P. 25(d).

Administration for additional consideration. *See* ECF No. 19. The R&R proposes remand specifically for additional consideration by the Commissioner of April H.'s residual functional capacity in light of the ALJ's finding that April H. was moderately limited in understanding, remembering, and applying information. *Id.* at 12–15. Neither party objected to the R&R, *see* Fed. R. Civ. P. 72(b)(2), so the Court reviews the R&R for clear error, *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, the Court adopts the R&R, reverses the Commissioner's decision, and remands to the Social Security Administration for further proceedings.

CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS
HEREBY ORDERED** that:

1. The relief of remand for further proceedings requested in April H.'s brief (ECF Nos. 13, 14) is **GRANTED**.
2. The relief requested in the Commissioner's brief (ECF No. 16) is **DENIED**.
3. The Report and Recommendation (ECF No. 19) is **ADOPTED**.
4. The final decision of the Commissioner is **REVERSED**, and the matter is **REMANDED** to the Social Security Administration for further proceedings consistent with the Report and Recommendation (ECF No. 19).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 3, 2025

s/Laura M. Provinzino
Laura M. Provinzino
United States District Judge